

Hawaii Juvenile Justice Working Group

Final Report

December 13, 2013

Summary

Over the last decade, Hawaii has made commendable improvements in its juvenile justice system. Juvenile arrests fell 28 percent,¹ and the number of youth annually admitted to the Hawaii Youth Correctional Facility (HYCF) declined 41 percent.² With declining juvenile arrests and fewer youth being removed from their homes, Hawaii has been headed in the right direction.

Building on its success, the state should aspire to continual improvements. In order to keep heading in the right direction and to further the gains, youth-serving agencies—the Judiciary, the Office of Youth Services (OYS), and the Department of Health, Child and Adolescent Mental Health Division (CAMHD)—all agree that resources are needed to fully develop an effective continuum of services in Hawaii’s communities. The current resources and means of accessing services allow youth to fall through the cracks. Additional resources for these youth would not only further reduce the number of commitments to HYCF and the detention home, but also help strengthen youth, families, and communities.

While fewer in number, the youth who are committed to HYCF are staying longer. More youth enter HYCF for misdemeanors than felonies; more enter for property, drug and other nonviolent offenses than for person offenses; and nearly half have no prior felony adjudications. Each bed at HYCF costs state taxpayers \$199,320 per year.³ Three-quarters of the youth who leave HYCF will be re-adjudicated delinquent or reconvicted within three years.⁴ While taking steps in the right direction, Hawaii should get better outcomes from the high costs of HYCF.

Moreover, if effective alternatives were available, many of these youth could be held accountable and safely supervised in their communities at far lower cost. Every dollar spent on secure confinement is a dollar Hawaii could otherwise use to build the fully-resourced, evidence-based continuum of supervision and services for delinquent youth that was envisioned during the creation of OYS in 1989.

Early access to substance abuse and mental health services is a necessary component of this continuum. Youth with urgent and critical needs must have access to needed treatments to prevent future delinquencies. As Hawaii strives to build up this continuum and provide these tools, the state recognizes that success – for Hawaii’s youth, families, and communities – will require hard work, collaboration, compromise, and leadership. Without substantial additional resources allocated by the Legislature, the goal of improving the juvenile justice system in Hawaii cannot be realistically achieved. The agencies

¹ Crime In Hawaii: A Review Of Uniform Crime Reports, Research & Statistics Branch, Crime Prevention & Justice Assistance Division. Online. Available: http://ag.hawaii.gov/cpja/files/2013/01/Crime_in_Hawaii_2011.pdf.

² Unless otherwise noted, analyses in this report were conducted by The Pew Charitable Trusts, based on data from Hawaii’s Juvenile Justice Information System (JJIS) and Office of Youth Services (OYS).

³ Per bed costs were calculated using budgetary information provided by the Office of Youth Services and the capacity of HYCF, 56 beds.

⁴ Hawaii Youth Correctional Facility Recidivism Study (August 2010). Honolulu: Department of the Attorney General. <http://ag.hawaii.gov/cpja/files/2013/01/HYCF-Recidivism-Study-2005-2007.pdf>

responsible for providing these services need the resources necessary to achieve these goals and appropriately serve youth.

In August of 2013, Governor Neil Abercrombie, Chief Justice Mark Recktenwald, Senate President Donna Mercado Kim, and House Speaker Joseph Souki established the Hawaii Juvenile Justice Working Group to develop policy recommendations that will accelerate reductions in the state's use of secure beds for lower-level juvenile offenders while protecting public safety and increasing positive outcomes for youth, families, and communities. The Working Group was charged with analyzing Hawaii's data, policies, and practices; reviewing research on evidence-based principles and national best practices; and recommending policies that will move Hawaii toward a more effective, equitable and efficient juvenile justice system.

The Working Group's efforts have resulted in a comprehensive set of policy recommendations that will improve the return Hawaii receives from its investment in juvenile justice. By focusing secure beds on juveniles who pose a public safety risk and strengthening community supervision practices across the islands, the recommendations will put more Hawaii youth on the track toward productive, law-abiding lives, and ensure that taxpayer resources are used efficiently. Taken together, the policies are expected to reduce the HYCF population by at least 60 percent by 2019, producing savings of at least \$11 million dollars over the next five fiscal years, and provide for reinvestment in local jurisdictions. With those reinvestments, family court judges and probation officers will have more effective supervision and rehabilitation options, leading to reduced recidivism and increased public safety.

The Challenges Facing Hawaii

The Working Group's current effort follows a turbulent quarter century for Hawaii's juvenile corrections system. In 1987, Hawaii was in search of an agency to oversee HYCF, which was, at the time, the subject of intense criticism, repeated audits, and the threat of legal action.⁵ After careful study, the Legislature created a youth-focused agency – OYS – with dual goals: administer and oversee HYCF, and create a continuum of services for youth.

By 2004, it was clear that at least one of the goals had not been met. In fact, conditions within HYCF had deteriorated to the point of legal action by the U.S. Department of Justice (DOJ). The DOJ highlighted a lack of clear policies and procedures underlying the treatment of residential-level youth, and made

⁵ Office of Youth Services, "Strategic Plan for the Office of Youth Services in Hawaii," (1991). The strategic plan, created at the behest of the Legislature in formulating the new OYS, found that the "greatest amount of money, more than three times greater than any other category," was being spent for out-of-home placements, and this needed to be shifted to more community-based programs. In fact, the authors of the strategic plan recommended that HYCF be replaced with a 20 bed facility to ensure that adequate resources were "left for the remainder of the youth care continuum."

serious allegations about the use of excessive force and abuse of youth in the facility.⁶ HYCF would remain under DOJ oversight for seven years.

During that same period, Hawaii's juvenile arrest rate plummeted. Between 2002 and 2011, the arrest rate for serious violent and property offenses dropped 28 percent.⁷ Combined with the increased scrutiny of commitments to HYCF and falling arrest rates, by 2013, commitments to HYCF had fallen by 41 percent.⁸

At the same time that commitments to HYCF were declining, the state was focusing attention on the creation of a continuum of services for youth. This was especially critical as fewer youth were committed to HYCF and as state leaders began the discussion about the most effective use of secure facilities, with an eye towards the continuum of alternatives envisioned in the creation of OYS.

The reduction in the use of secure facilities for less-serious youth is a positive step toward effective juvenile justice practices. Research indicates that secure facilities are an appropriate supervision option for certain youth with a high risk of reoffending.⁹ However, research also suggests that alternatives to secure confinement, in the form of an array of proven and promising strategies and programs, can produce sizeable reductions in recidivism. For many youth, residential placement generally fails to produce better outcomes than community-based alternatives, and in some cases may actually increase the risk of reoffending.¹⁰ These community-based alternatives, such as probation, outpatient mental

⁶ U.S. Department of Justice. "Investigation of the Hawaii Youth Correctional Facility, Kailua, Hawaii." (2005). http://www.justice.gov/crt/about/spl/documents/hawaii_youth_findlet_8-4-05.pdf

⁷ Crime in Hawaii: A Review of Uniform Crime Reports, Research & Statistics Branch, Crime Prevention & Justice Assistance Division. Online. Available: http://ag.hawaii.gov/cpja/files/2013/01/Crime_in_Hawaii_2011.pdf; Population Data: Puzanchera, C., Sladky, A. and Kang, W. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojdp.gov/ojstatbb/ezapop/>

⁸ Substantial reductions in both juvenile crime and the secure commitment of youth were not unique to Hawaii. These same trends, in fact, were representative of the nation as a whole. By 2011, arrest rates for index offenses had fallen 28 percent nationally, and between 1999 and 2011, the number of juveniles in secure residential placement had fallen 46 percent. "Latest Data Show Juvenile Confinement Continues Rapid Decline," Pew Charitable Trusts, Aug. 2013. <http://www.pewstates.org/news-room/press-releases/latest-data-show-juvenile-confinement-continues-rapid-decline-85899480842>

⁹ C.T. Lowenkamp and E. Latessa, "Evaluation of Ohio's RECLAIM Funded Programs, Community Corrections Facilities, and Department of Youth Services Facilities," 2005.

¹⁰ C.T. Lowenkamp and E. Latessa, "Evaluation of Ohio's RECLAIM Funded Programs, Community Corrections Facilities, and Department of Youth Services Facilities," 2005; M.W. Lipsey and F.T. Cullen, "The effectiveness of correctional rehabilitation: A review of systematic reviews." Annual Review of Law and Social Science 3 (2007): 297-320.

health or substance abuse treatment, and evidence-based programming for juveniles, also come at a lower cost than secure confinement.¹¹

State leaders across the nation have recognized that combining a more focused use of secure facilities with a continuum of services for youth can result in less recidivism, more rehabilitation of youth, and lower costs for taxpayers. In order for Hawaii to finally achieve the continuum of youth services 25 years in the making, and to seize upon proven practices, state leaders took the step of bringing policymakers and stakeholders together to discuss, study, analyze, and develop policies for Hawaii's juvenile justice system.

The Hawaii Juvenile Justice Working Group

In the spring of 2013, state leaders in Hawaii came together to discuss ways to improve outcomes for youth, families, and communities. Even against the backdrop of reduced admissions to the state secure facility, stagnant budgets and high recidivism rates prompted stakeholders to begin a discussion about whether Hawaii could improve case outcomes for youth, protect public safety, and provide the best return on taxpayer investments in the juvenile justice system.

To further this discussion, Hawaii Governor Neil Abercrombie, Chief Justice Mark Recktenwald, Senate President Donna Mercado Kim, and House Speaker Joseph Souki established the Hawaii Juvenile Justice Working Group, comprised of 20 stakeholders from the executive, legislative, and judicial branches, as well as representatives from key stakeholder groups including law enforcement, prosecution, public defense, and community service providers.

The state leaders charged the Working Group with studying ways to increase the public safety return from Hawaii's juvenile corrections spending, including policy recommendations that will:

- Reduce recidivism and crime by improving case outcomes in the juvenile justice system;
- Leverage and reallocate resources across the juvenile justice system to maximize the effectiveness of Hawaii's correctional dollars and placement options; and,
- Ensure Hawaii's policies and practices are grounded in data and evidence.

The Working Group met monthly from August through December 2013, receiving intensive technical assistance from the Pew Charitable Trusts' Public Safety Performance Project. The work began with extensive analyses of Hawaii's juvenile justice system data, including arrest rates; probation admissions and lengths of stay; juvenile commitments to HYCF, terms, and outcomes; and juvenile justice data reflecting the racial, ethnic, and gender representations throughout the system. The members of the Working Group conducted a broad assessment of Hawaii's juvenile justice system, analyzing policies, practices, programs, and statutes. Much of the information was considered on a statewide basis and disaggregated by circuit.

¹¹ Drake, E. K., Aos, S., & Miller, M. G. (2009). Evidence-based public policy options to reduce crime and criminal justice costs: Implications in Washington state. *Violence and Victims, 4*, 170–196.

The Working Group also engaged in outreach and discussions with the neighbor islands through convenings on Kauai, Maui, and Hawaii Island. Staff from probation, the Judiciary, OYS, the Legislature, the Department of Education (DOE), the Department of Health (DOH), and the Department of Human Services (DHS) provided information through one-on-one interviews, focus groups and larger community surveys that was used to build a more complete picture of the juvenile justice system.

Armed with this data, the Working Group began reviewing research on what works to reduce delinquency and effective practices in juvenile justice, including empirical peer-reviewed studies about effective community-based practices and efficient use of secure facilities.

The Working Group used this information to establish key findings to guide policy development and the direction of the recommendations.

Key Findings

With the goals of reducing recidivism, improving case outcomes, and maximizing the effectiveness of Hawaii's juvenile justice system, the Working Group established the following key findings.

Key Findings for HYCF Commitments

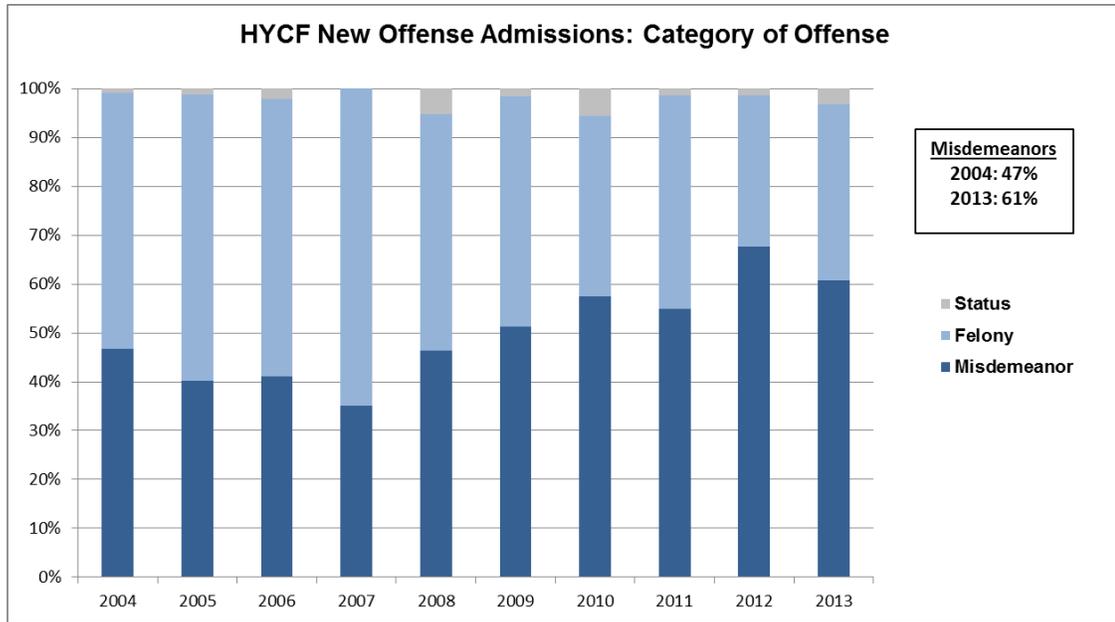
Fewer Youth Admitted to HYCF, but Staying Longer

Two factors determine committed youth populations: how many youth are admitted, and how long they stay. Even as admissions to HYCF have declined 41 percent in the last decade, the youth who are committed are staying far longer. On average, lengths of stay in HYCF are 188 percent longer, rising from 2.5 months in 2004 to 7.2 months by 2013. The available data does not clearly indicate the reason for the increase in the length of stay; however, the Working Group considered wait times for youth accessing intensive treatments and mental health care, in addition to reductions in short term commitments to HYCF.

Further, length of stay does not vary substantially between different offense levels: on average for youth released during the 2013 fiscal year, misdemeanor commitments last just under seven months, while felony commitments last for just over eight months. The offense or offenses underlying the commitment to HYCF are not the only factors relevant to length of stay. Offender risk levels and prior delinquent behavior figure in as well. The Working Group expected the difference in length of stay between felony and misdemeanor offenders would be greater than just six weeks.

Large Shares of Misdemeanant, Nonviolent Youth in HYCF

Youth committed for misdemeanor offenses constitute a growing and majority share of HYCF admissions. In fiscal year 2013, 61 percent of HYCF admissions for a new offense were committed for a misdemeanor, up from 47 percent in 2004.



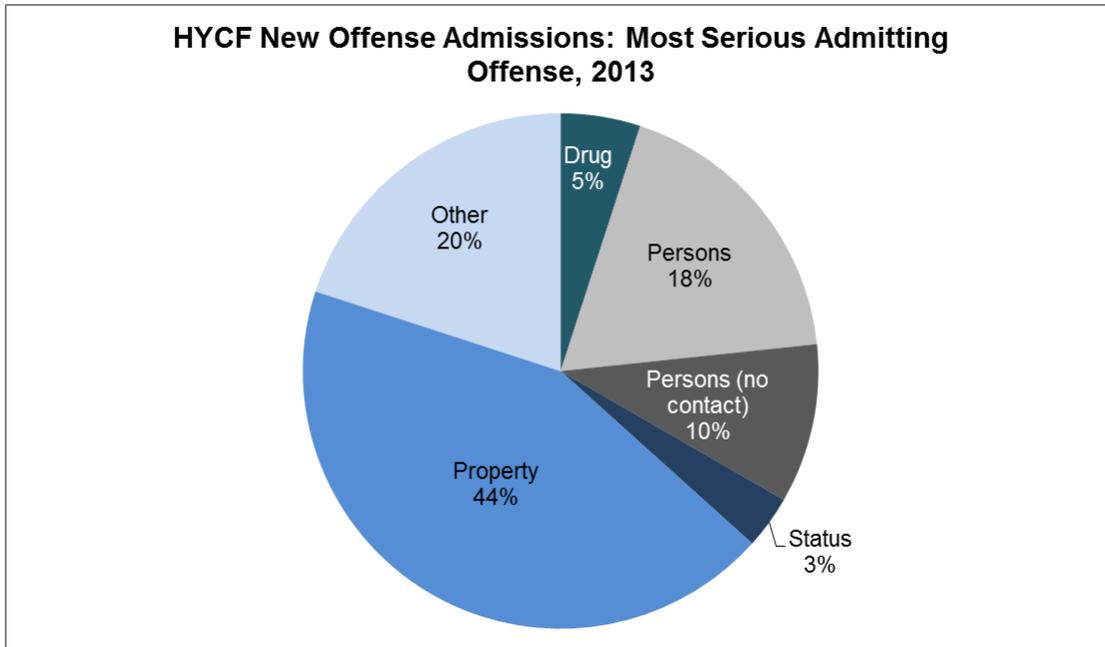
Youth committed for nonviolent offenses constitute the vast majority of HYCF admissions. In fiscal year 2013, 72 percent of youth admitted to HYCF were adjudicated for a property, drug, status, or “other” offense.¹² The remaining 28 percent of youth admitted to HYCF were admitted for a “person” or “person-no contact”¹³ offense.

The proportion of HYCF commitments precipitated by nonviolent offenses has risen slightly over the last decade. In 2004, nonviolent offenses made up 63 percent of admissions, while 34 percent of youth admitted that year were admitted for a “person” or “person-no contact” offense.¹⁴

¹² “Other” offenses in 2013 included contempt of court, disorderly conduct, escape, and resisting arrest.

¹³ Hawaii defines “person-no contact” offenses as those which, while severe, do not normally involve injurious physical contact. These offenses include terroristic threatening, harassment, and possession of weapons offenses.

¹⁴ The remaining three percent of youth were admitted for a sex offense.



Limited Delinquency Histories of Youth in HYCF

Many HYCF admissions are youth with limited criminal histories. Over the last five years, 45 percent had no prior felony adjudications. Of that 45 percent, just over half had one or fewer misdemeanor adjudications.

Disproportionate Share of Commitments from Neighbor Islands

Youth from Hawaii’s neighbor islands make up a disproportionate share of the total population committed to HYCF. While the neighbor islands are home to 31 percent of Hawaii’s total youth population ages 10-17,¹⁵ and the most recent data shows that 30 percent of index arrests occur on the neighbor islands,¹⁶ neighbor island youth made up 46 percent of all HYCF admissions in fiscal year 2013.

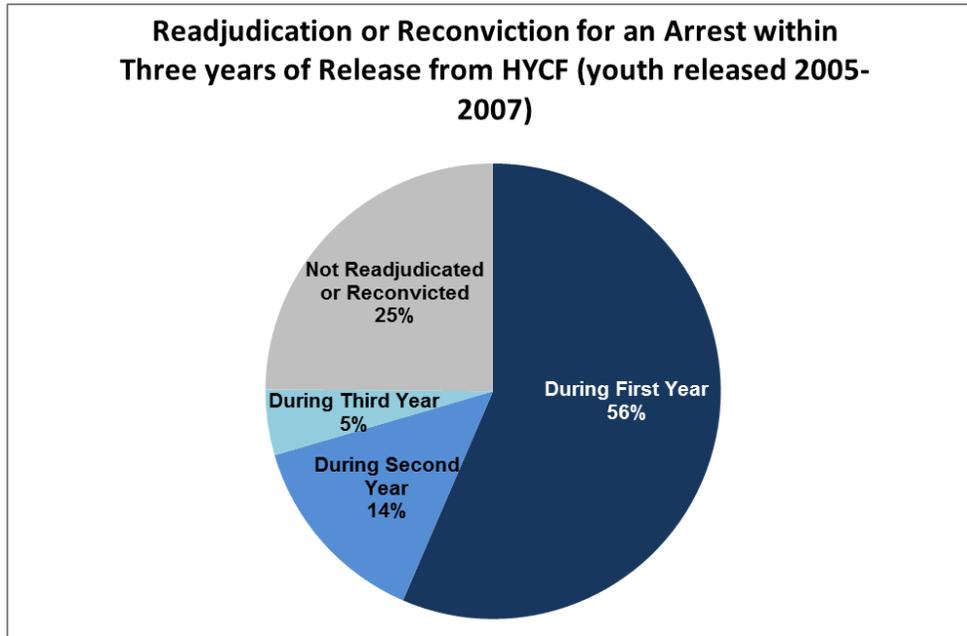
Poor Public Safety Return on HYCF Spending

Each of the 56 beds in HYCF costs Hawaii taxpayers \$199,320 per year. And, despite growing length of stay and larger shares of youth committed for misdemeanor offenses, 75 percent of

¹⁵ Population Data: Puzanchera, C., Sladky, A. and Kang, W. (2013). "Easy Access to Juvenile Populations: 1990-2012." Online. Available: <http://www.ojdp.gov/ojstatbb/ezapop/>.

¹⁶ Crime In Hawaii: A Review Of Uniform Crime Reports, Research & Statistics Branch, Crime Prevention & Justice Assistance Division. Online. Available: http://ag.hawaii.gov/cpja/files/2013/01/Crime_in_Hawaii_2011.pdf.

youth released from HYCF between 2005 and 2007 were re-adjudicated in Family Court or re-convicted in the adult criminal justice system within three years of release.¹⁷



Key Findings for Juvenile Probation

Stable Probation Populations and Underlying Offenses, but Increasing Supervision Terms

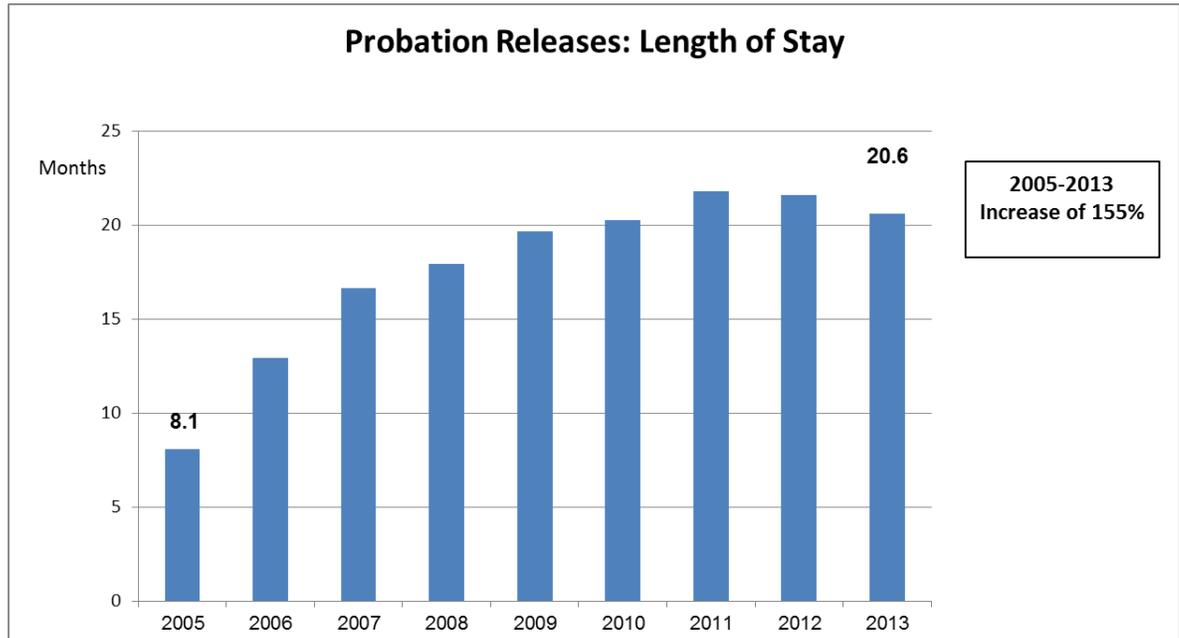
Total admissions to juvenile probation in Hawaii have fallen, but the decline has not kept pace with the declines in juvenile arrests and admissions to HYCF. Probation admissions dropped four percent over the last 10 years, to 569 admissions in the 2013 fiscal year.

The types of offenses for which youth are placed on probation have remained relatively stable over the last decade. More than six in 10 admissions to probation in 2013 were for nonviolent offenses and violations of a previously adjudicated probation. Misdemeanants constituted a slightly higher proportion (55 percent versus 49 percent) of admissions in 2013 compared to 2005.

During that same period, the average length of time youth spend on probation increased 155 percent, from 8.1 months in 2005 to 20.6 months. While increased probation lengths were seen across all circuits, the increases varied: in the Fifth Circuit, the average length of stay rose to 15.6 months, while youth on probation in the First Circuit served an average of 26.6 months.

¹⁷ Hawaii Youth Correctional Facility Recidivism Study (August 2010). Honolulu: Department of the Attorney General. <http://ag.hawaii.gov/cpja/files/2013/01/HYCF-Recidivism-Study-2005-2007.pdf>

Data analysis was unable to identify definitive causes of these significant increases, but one possible reason is an increase in the use of indefinite probation terms.



Finally, the probation population has consistently contributed a significant proportion of the youth committed to HYCF. Over the last three fiscal years, more than four of every 10 admissions to HYCF were for a probation violation or revocation.

Access to Resources Limited and Challenging

Overwhelmingly, juvenile justice system stakeholders provided information to the Working Group about the lack of a continuum of interventions for juvenile offenders and difficulty accessing the services that do exist. For example, only one residential substance abuse facility exists across Hawaii. In a survey, 98 percent of responding probation officers reported that there were not enough resources in the community for probation-level youth. The Working Group found that funding for services comes from a variety of agencies whose eligibility criteria create obstacles for easy and timely access.

Inadequate Mental Health and Substance Abuse Treatments

The Working Group received information on the critical and urgent need for enhanced access to mental health and substance abuse treatments for youth, especially at early junctures in a youth's contact with the court. Probation officers and court officials highlighted the wait times and administrative criteria that often inhibit access to treatments or severely delay needed services. Youth can languish in the system even after clear needs are identified, but those needs are left untreated and eventually impact a youth's risk to reoffend. And family courts are too often in need of crucial early interventions that are necessary for justice system-involved youth that could prevent further reoffending. Stakeholders consistently identified the significant

deficiency in treatment resources across the state, and the corresponding need for greater and earlier access to proven and effective mental health and substance abuse treatments.

Probation Practices Vary across the Circuits

The Working Group found variance in policies and practices across circuits in intake decision making, the setting of probation terms, probation goals and outcomes, how youth are supervised and how probation violations are addressed.

For example, intake probation officers in each circuit use different criteria to decide which youth will be diverted from future court processing during the pre-disposition phase. Each circuit also has different policies regarding the use of decision-making and assessment tools. For example, not every circuit uses risk and needs assessments, and those that do assess youth do not assess the same types of youth at the same times. In addition, every circuit has similar yet different administrative monitoring policies, which stakeholders report sprung up organically but is not yet grounded in statute.

Additionally, at disposition, judges impose probation terms differently. For example, in two circuits, youth are put on probation to the age of majority, while the other circuits utilize short or indefinite probation terms. Lastly, the levels of contact that field probation officers have with youth differ in frequency and location across circuits. This patchwork of practices likely results in poorer outcomes, dissimilar treatment for similarly situated youth, and uncertainty for youth, families, victims, and communities.

Policy Recommendations

Based on the above findings, the Working Group designed a set of policy options to achieve the charge it was given by state leadership. The policy recommendations identify ways the state can focus system resources on protecting public safety; strengthen community supervision and probation practices; and sustain effective practices through funding incentives and continued legislative oversight. The Working Group's recommendations, taken together, are projected to accelerate current trends, reducing the HYCF average daily population by at least 60 percent by 2019. These shifts in resources will allow the closure of the Ho'okipa Makai cottage during the 2015 fiscal year, and in total are projected to save Hawaii taxpayers at least \$11 million over the next five fiscal years.

The Working Group recommends that the state make targeted reinvestments – estimated at \$2 million per year – of these anticipated savings to strengthen juvenile probation and reduce recidivism. Some policy recommendations will require the rededication of existing staff time, while some require the use of reinvested funds. In either case, an investment now will produce significant returns for the foreseeable future in the form of reduced reoffending and more youth set on a path to productive, law-abiding lives.

Focus System Resources on Protecting Public Safety

The Working Group analyzed data that revealed the flow of youth throughout the system, and used this data to develop policy recommendations that allow the juvenile justice system to more effectively protect public safety by putting youth in the right placements at the right time and diverting youth out of the system when appropriate. The deep-end of the system must be more effectively targeted to youth who pose a public safety risk, while the front end concentrates on those who need juvenile justice system intervention. The Working Group sought to shift youth placements and dollars to ensure every juvenile justice dollar and each segment of the system is targeted to protecting public safety and generating the best outcomes for youth.

Use HYCF to Target More Serious Juvenile Offenders

- Recommendation 1: Focus HYCF Beds on More Serious Youth

At a current cost of \$199,320 per year, HYCF beds are an expensive resource. Targeted to the right populations, HYCF beds serve an important role: to incapacitate youth who are public safety risks and provide those youth with needed treatment and rehabilitation in a secure setting.

To ensure that HYCF is used for public safety purposes and targets youth who have committed more serious offenses, the Working Group recommends that youth adjudicated for misdemeanors no longer be eligible for commitment to HYCF. The Working Group considered evidence that secure confinement has no effect on the risk to reoffend for many youth, and in some cases, may actually increase the likelihood of reoffending. Youth who have committed more serious offenses, such as a felony, or youth who have violated terms of their probation or have had their probation revoked, will still be eligible for commitment to HYCF. In addition, the Working Group recommends that HYCF beds continue to be used for youth as a sanction in juvenile drug court.

- Recommendation 2: Reinvest the Savings in Local Alternatives

Targeting HYCF beds to more serious juvenile offenders will free up resources within the OYS budget. The Working Group recommends that these resources be reinvested in the circuits and in mental health and substance abuse treatment in order to provide for more effective community-based alternatives for youth who do not require placement in a secure facility. This reinvestment will consist of two parts: an upfront grant provided to each of the circuits, and a performance incentive to fund continued efforts by the circuits to reduce their use of beds in HYCF. These funds will provide circuits with opportunities and options to create and fund effective practices, in partnership with OYS and CAMHD when appropriate, to reduce recidivism and help more youth successfully exit the juvenile justice system.

- Recommendation 3: Provide Funding for Critical Treatment and Services in Communities

The Working Group found that the overwhelming majority of all arrests of juveniles in Hawaii are for minor, non-violent offenses and status offenses. Stakeholders report that, often, the underlying causes of these offenses include family dysfunction, trauma, and substance abuse, which can go woefully unaddressed due to a lack of available services. The Working Group believes that these arrests often multiply and lead to the inappropriate and excessive involvement in the juvenile justice system.

The Working Group recommends that services to address these mental health and social issues be increased and addressed statewide, and that the necessary funding be allocated through one of the youth-serving agencies, to meet the myriad of mental health and social needs that at-risk youth and their families struggle with on a daily basis. The Working Group also finds a stated need from stakeholders for secure mental health treatment, and recommends support for this need.

- Recommendation 4: Refocus Efforts on Substance Abuse Needs

The heavy toll from substance abuse issues found in many juvenile justice system-involved youth and their families is a significant burden. Working Group members estimated that 80 percent of youth involved in the Hawaii juvenile justice system suffer from substance abuse.

Abuse, dependence, and addictions are serious challenges for Hawaii, and if left untreated in juvenile populations, could lead to joblessness, homelessness, increasing rates of delinquency and criminality, and additional prison beds. These outcomes could create significant costs that consume an inordinate percentage of state spending.

The Working Group observed that a common denominator in many delinquent acts is substance abuse, making the dearth in available services all the more troubling. The Working Group recommends that resources be allocated to address substance abuse in Hawaii's four counties, including both residential and outpatient services.

- Recommendation 5: Review Eligibility for Mental Health Services

Though not by DOH's design, the Working Group found that the criteria for youth to access mental health services through CAMHD to be extremely restrictive.¹⁸ Many of the youth currently involved in the juvenile justice system who could benefit from mental health services are ineligible based on the current eligibility criteria, which is either Medicaid eligibility or a special education qualification. Mental health services could play a significant role in putting youth back on the right track if applied to the right youth at the appropriate time. And the Working Group finds that failing to correct these criteria could have severe consequences for youth and their futures.

The Working Group recommends a review of the current eligibility requirements, with a focus on expanding access to services to ensure that youth determined to be at-risk and with a need for mental health services receive those services in a more comprehensive and timely manner, through DOH or their contracted mental health providers. Finally, the Working Group strongly recommends to fund or allocate the resources necessary to achieve these goals for CAMHD and ensure the agency has the fiscal and human resources necessary to adequately serve youth.

- Recommendation 6: Guide Rehabilitation in HYCF with Findings of Fact

¹⁸ Under Hawaii Revised Statutes §321-171 (2013), CAMHD is required to "(1) Provide preventative health services for children and youth; (2) Provide diagnostic and treatment services for emotionally disturbed children and youth; and (3) Provide treatment and rehabilitative services for mentally ill children and youth."

Youth adjudicated for a felony, violation of probation, or sanctioned in juvenile drug court will continue to be eligible for commitment to HYCF. For these youth, the Working Group recommends that judges be required to enter a finding of fact in the record when committing these youth to HYCF stating the reasons that the youth is a public safety risk warranting placement in HYCF. These findings of facts will help guide rehabilitation and treatment plans, and ensure that information is fully shared between the committing circuit and HYCF. Findings of fact will not be required for youth committed for felony person or sex offenses.

Clarify and Strengthen Juvenile Parole and Reentry Practices

- Recommendation 7: Clarify the Criteria Used to Release Youth from HYCF

To increase consistency and transparency in HYCF's release processes, the Working Group recommends that HYCF clarify in statute its release criteria and procedures. Currently, the factors which trigger release from HYCF are not codified. By implementing written policies, the process will be clear for youth and their families and more predictable for the agencies that work with youth on parole.

- Recommendation 8: Require the Creation of Offender Reentry Plans

To increase successful reentry, the Working Group recommends that, for youth admitted to HYCF who are not concurrently serving a term of probation, HYCF complete a reentry plan within 30 days of a youth's admission to HYCF. The plan should include goals, strengths, restitution, and rehabilitation efforts, when applicable. HYCF should work with the youth and his or her family in developing the plan and progress towards the goals to the extent possible. HYCF will also provide a copy of the reentry plan to the youth's family and offer regular updates, if requested. At the end of a youth's stay in HYCF, staff will be required to provide at least 15 days of notice prior to releasing a youth to the youth's family as well as any relevant agency or community provider that may be involved in that youth's transition home.

For youth entering HYCF while concurrently on probation, the youth's probation officer may request that HYCF staff collaborate and create a reentry plan in conjunction with the probation officer.

Clearly Define Diversion Avenues for Lower- Level Youth

- Recommendation 9: Provide Clear Diversion Authority for Youth Who Do Not Need Justice System Interventions

To clarify diversion authority that exists prior to informal adjustment, the Working Group recommends that statutory authority be given to intake probation officers to divert youth from any additional justice system processing. The youth most appropriate for diversion are usually first-time offenders or have engaged in very minor delinquent behavior. To ensure that this authority is used appropriately, intake officers or intake supervisors should be required to submit monthly reports to the deputy chief court administrator in each circuit stating the number and types of referrals diverted out of the system.

- Recommendation 10: Standardize Criteria for Informal Adjustment

For youth who need a minor level of court intervention, and to ensure that similarly situated youth receive similar opportunities no matter where they live, the Working Group recommends that a standard informal adjustment be codified in statute and applied across the circuits.

The Working Group analyzed current practices and, using these practices as a basis for the statutory criteria, recommends mandatory informal adjustment for all youth who were not previously diverted and referred to probation for either a status offense or for a first-time misdemeanor. Informal adjustment should be discretionary for all other youth. The Working Group also recommends that the circuits collaborate and agree on a set of factors, to be set in probation policy and practice, which will guide informal adjustment decisions.

- Recommendation 11: Codify Current Administrative Monitoring Practices

For youth who require more system intervention than informal adjustment allows, but not necessarily a term of probation, the Working Group recommends codification of the current practice of administrative monitoring.

Administrative monitoring refers to adjudicated youth who are monitored by court staff and placed on what is known as “compliance status.” While on this status, the judge sets a discrete number of conditions—usually no more than three—that the youth must satisfy within a set period of time. If the youth does so, the case is closed. If not, the judge resets the case for an additional period of time, after which the case may be closed, dismissed, or disposed to full probation status.

Codification of this current practice will allow circuits to track and analyze the outcomes for youth placed on administrative monitoring. Using administrative monitoring will also allow for expedient post-adjudication referral to alcohol, drug, or mental health treatment, which may avoid the need for probation supervision if completed.

Strengthen Community Supervision and Probation Practices

The Working Group discussed a need for more resources and options at the front end of the system, primarily within probation, to reduce recidivism and halt the progression of youth to secure facilities. The resulting policy recommendations will standardize practices across the circuits, provide additional tools to probation officers to correct youth behavior, enhance a system of goal-oriented probation, and increase opportunities for interagency collaboration.

Maximize Probation Effectiveness in Every Circuit

- Recommendation 12: Provide for a Risk and Needs Assessment to Assist Judges in Disposition Decisions

The use of a risk and needs assessment which has been validated and normed on Hawaii’s population can provide consistent information about each youth who comes before the court. Assessments provide

valuable information about each youth's risk to reoffend and those criminogenic needs which, if addressed, can reduce that risk to reoffend.¹⁹

The Working Group recommends that the deputy chief court administrators in each circuit solicit input and collectively research and select a single risk and needs assessment for use across the islands, and that the assessment be administered to each youth prior to disposition. The Working Group also recommends that state statutes require the revalidation and norming of the tool on Hawaii's population at least every five years.

- Recommendation 13: Use Risk and Needs Assessments to Drive Supervision

To get the best results possible from probation supervision, research indicates that risk and needs assessments should drive case planning and supervision decisions for youth. The Working Group recommends that probation officers use risk and needs assessments to determine supervision levels, establish the frequency of contacts with probation staff, and shape referrals to treatment or services. However, the Working Group also recommends that probation officers be allowed to depart from the supervision levels or services derived from risk and needs assessments upon consultation and approval from a probation supervisor.

- Recommendation 14: Create Case Plans to Focus Probation on Successful Outcomes

The risk and needs assessment administered to each youth will reveal specific issues which, if addressed, will reduce the risk of future reoffending. Probation efforts should focus on addressing those specific problem areas.

The Working Group recommends that probation develop a case plan for each youth under supervision that establishes the conditions of probation, the goals related to reducing criminogenic needs, and any needed evidence-based programming. In conjunction with the case plan, the Working Group recommends that judges should specify a definite term of probation for each youth, subject to extension or modification by the court.

The probation officer and judge should monitor case plan progress and alter the conditions, as necessary, to assist and drive achievement of the goals within the case plan. In addition, the probation officer should be required to consult with the youth's family prior to submission of the case plan to the court and keep the family informed and updated upon request.

- Recommendation 15: Require at Least One Home Visit for Probated Youth

Family involvement is an essential part of successful juvenile rehabilitation. To encourage this and to observe family interactions with a probated youth, the Working Group recommends that each youth receive at least one visit at home from his or her probation officer within 45 days of beginning probation. This requirement should apply only to youth who are on a probation status that includes

¹⁹ Criminogenic needs are dynamic qualities of an offender that research directly links to criminal and delinquent behavior such as anti-social values, poor impulse control, and substance abuse.

visits or meetings with their probation officer. Thereafter, the frequency and schedule of any additional home visits will be guided by the youth's risk and needs assessment, allowing for more home visits for higher-risk youth and fewer for lower-risk youth.

- Recommendation 16: Provide Annual Training for Probation Officers

Probation and court officials across Hawaii have highlighted the importance of regular training to keep probation officers up-to-date on best practices and trends in probation and to improve the quality and consistency of probation supervision. The Working Group recommends that the deputy chief court administrators provide for training for intake and field probation officers on best practices, such as assessing risk and needs or effective use of reinforcement and disapproval, at least annually. The administrators may collaborate to provide the training jointly to probation officers in one or more circuits.

Equip Probation Officers with the Tools to Manage Youth Behavior

- Recommendation 17: Create Graduated Sanctions and Incentives for Probated Youth

The Working Group recommends the creation and use of a system of graduated sanctions and incentives to hold youth accountable and encourage compliance with probation conditions. The Legislature should give probation officers authority to respond to certain probation violations with these sanctions without needing to return to court. This will help establish clear expectations for offender behavior and boost the impact of supervision on behavior by reducing the length of time between violations and responses. Officers also will be able to encourage positive behavior with rewards and incentives.

The Working Group recommends that the system use youth risk level and the seriousness of violations to determine the responses probation officers are authorized to apply as alternatives to judicial modifications or revocations. However, at the next review hearing following the delivery of a sanction or incentive, probation officers should be required to inform judges about the actions taken.

- Recommendation 18: Invest in Proven Practices to Reduce Reoffending

Over the last three decades, a wealth of research has identified effective policies, practices and programs to reduce delinquency. By devoting probation dollars to proven, effective practices, Hawaii can ensure the system maximizes its effectiveness.

The Working Group recommends that each circuit invest a majority of its probation expenditures in evidence-based practices, such as matching interventions to youths' criminogenic needs, implementing programs with strong fidelity to models, and investing in proven programs that will do more to reduce the risk of reoffending.

- Recommendation 19: Establish a System of Earned Discharge for Youth to Incentivize Success

Youth who are fully compliant with probation conditions should have an opportunity to earn early discharge from probation. This not only rewards probation compliance, but also allows probation staff to focus their resources on those other youth who struggle to complete probation successfully.

The Working Group recommends that youth receive 30 days off the end of their probation term for every 30 days of full compliance with their probation conditions. In addition, at the request of the probation officer and at the discretion of the judge, the earned discharge credits may also be awarded to a youth for substantial compliance.

Increase Collaboration with Partner Agencies

- Recommendation 20: Provide for Collaboration Between the Judiciary and Mental Health Clinicians

The Working Group's findings regarding the importance of mental health and substance abuse needs in juvenile justice system-involved youth call out for greater collaboration between judges, court officials, and mental health clinicians and providers. Effectively treating these needs in youth could be facilitated by greater communication and a focus on case management and problem solving.

The Working Group recommends that the members of the Judiciary and DOH meet on a regular basis to consult on specific cases and broader issues held in common between the two stakeholders. These discussions will provide an avenue to short-term resolution of specific needs and cases as well as broader, long-term gains in collaboration and services.

- Recommendation 21: Provide a Pathway to Earlier Referrals and Access to Mental Health Services

Many youth in the juvenile justice system have significant mental health needs. CAMHD currently contracts with providers that deliver mental health treatment and other juvenile offender interventions such as Multi-Systemic Therapy. Access to these programs can contribute to reduced delinquency.

The Working Group recommends that, if a youth's risk and needs assessment indicates a mental health need, the probation officer should be required to immediately refer the youth to CAMHD for presumptive treatment. CAMHD should be required to begin treatment and initiate a post-referral assessment and ascertain the youth's qualification for treatment.

In addition, the Working Group recommends that judges have statutory authority to suspend delinquency proceedings for up to one year to facilitate access to and completion of mental, behavioral, or substance abuse treatment.

The Working Group also recommends that the Legislature address the urgent need for increased access to mental health and substance abuse treatments. Family courts across Hawaii need the ability to expediently refer youth to these services, and for treatment to begin without undue delay. Untreated behavioral needs are crucial and a critically important challenge facing the juvenile justice system, and the Working Group recommends that the Legislature use these recommendations to develop legislation

that would reduce administrative delays and burdens on access to treatment and increase access to quality mental health and substance abuse treatments across the state, while maintaining efforts to ensure appropriate clinical care.

- Recommendation 22: Enhance Interagency Collaboration

Hawaii has developed a model for serving specific populations of youth and others in need, the interagency cluster model,²⁰ in which one agency leads and coordinates a service plan with allied agencies. The Working Group recommends that this model be specifically used to serve high-need juvenile justice system-involved youth.

The coordinated service plan will be led by the Family Court, and involve regular case planning and collaboration with all involved agencies, including DOH, DHS, and DOE. The involved agencies will meet once a month to discuss all active coordinated service plans in each circuit. The judge, at his or her discretion, could involve community-based providers, as well as OYS.

The Working Group also recommends that access to mental health services for youth in the juvenile justice system be expanded, and recommend that the Legislature consider making changes that would increase DOH's contribution in ensuring the juvenile justice population is accessing needed mental health and substance abuse services.

Sustain Effective Practices

The Working Group recognizes the need for the juvenile justice system to continually collect information, evaluate performance, and improve practices. A system that tracks performance and holds agencies accountable will improve outcomes and best serve the interests of youth, families and communities.

Collect, Analyze, Report, and Discuss Outcome Measures and Justice System Data

- Recommendation 23: Implement a System of Performance and Outcome Measures

To properly evaluate and inform justice system performance and guide future practices, the justice system and other involved agencies must collect comprehensive outcome measures and demographic information. The Working Group recommends that agencies involved in the juvenile justice system collect reliable and valid measures to understand and evaluate system performance and effectiveness.

The Working Group recommends collecting information on the types of youth who are admitted to probation and HYCF, the underlying offenses, how long those youth stay, the outcomes for those youth (tracked for three years after exiting the system), and budgetary information for each level of the system. The Working Group recommends that relevant agencies collect this information; in addition, agencies should create additional outcome measures, using common variables and definitions.

²⁰ See Hawaii Revised Statutes § 321D-1.

The Working Group recommends that outcome measures also be built into contracts with providers and that providers regularly report back to the contracting agency on those measures, and that all outcome measures be reported by providers and agencies at least annually.

- Recommendation 24: Empower an Oversight Committee to Monitor Reforms and Report Outcome Measures

The Working Group recommends that the Legislature establish an oversight committee with a clear and specific mission to, in part, monitor implementation of the recommendations in this report. The oversight committee will establish and review performance and outcomes measures for OYS, the Judiciary, and DOH, as the agencies work to implement these reforms. The committee will prepare an annual report that contains all the performance and outcome measures and data reported by the agencies. Membership, which will include stakeholders from the major youth-serving agencies, and meeting schedules shall be statutorily set.

Conclusion

Even as Hawaii has taken great strides to improve its juvenile justice system, the Working Group's findings reveal avenues for further reform. Hawaii has experienced a decade-long decline in the use of HYCF; however, 61 percent of youth admitted for a new offense in 2013 were admitted for a misdemeanor. Further reductions are possible by diverting these minor offenders and focusing HYCF beds on public safety risks.

The resulting fiscal savings must be reinvested into evidence-based alternatives in Hawaii's communities. In addition, the Working Group finds that a focus moving forward must be increasing access to and availability of critical mental health and substance abuse treatments. The lack of these services, currently, is a significant issue in the juvenile justice system in Hawaii. While DOH/CAMHD has a well-developed array of mental health and integrated substance abuse services, including evidence-based programs, the number of treatment slots and access to these services is restricted due to resources and eligibility issues. The lack of access to these services, currently, is a significant issue in the juvenile justice system in Hawaii.

For community supervision, the length of time youth spend on probation increased 155 percent in the last decade, even as the types of offenses for which youth were placed on probation remained relatively stable. The Working Group has recommended several strategies to improve the effectiveness of probation, including using a validated risk and needs assessment across the state to drive supervision case planning. These recommendations will allow each circuit to play a continually more significant role in reducing recidivism and maximizing system effectiveness.

The Hawaii Juvenile Justice Working Group recommends the package of policies included in this report to Governor Abercrombie, Chief Justice Recktenwald, Senate President Kim, and Speaker Souki. The Working Group recommends that state leaders introduce legislation based on these recommendations to meet the goal of maximizing the public safety return Hawaii receives from its investment in juvenile justice.

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